

# PATENT COOPERATION TREATY

# PCT

## DECLARATION OF NON-ESTABLISHMENT OF INTERNATIONAL SEARCH REPORT

(PCT Article 17(2)(a), Rules 13ter.1(c) and Rule 39)

Applicant's or agent's file reference <b>API-03-13-PCT</b>	IMPORTANT DECLARATION	Date of mailing (day/month/year) <b>15/04/2005</b>
International application No. <b>PCT/US2004/033145</b>	International filing date (day/month/year) <b>06/10/2004</b>	(Earliest) Priority date (day/month/year) <b>08/10/2003</b>
International Patent Classification (IPC) or both national classification and IPC <b>C12N15/863, C07K14/435, A61K39/00, A61K48/00, A61P35/00</b>		
Applicant, <b>AVENTIS PASTEUR, INC.</b>		

This International Searching Authority hereby declares, according to Article 17(2)(a), that no international search report will be established on the international application for the reasons indicated below

1. ☒ The subject matter of the international application relates to:
  - a. ☐ scientific theories.
  - b. ☐ mathematical theories
  - c. ☐ plant varieties.
  - d. ☐ animal varieties.
  - e. ☐ essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes.
  - f. ☐ schemes, rules or methods of doing business.
  - g. ☐ schemes, rules or methods of performing purely mental acts.
  - h. ☐ schemes, rules or methods of playing games.
  - i. ☐ methods for treatment of the human body by surgery or therapy.
  - j. ☐ methods for treatment of the animal body by surgery or therapy.
  - k. ☒ diagnostic methods practised on the human or animal body.
  - l. ☐ mere presentations of information.
  - m. ☐ computer programs for which this International Searching Authority is not equipped to search prior art.
2. ☐ The failure of the following parts of the international application to comply with prescribed requirements prevents a meaningful search from being carried out:
 


☐ the description
☐ the claims
☐ the drawings
3. ☒ The failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions prevents a meaningful search from being carried out:
 

☒ the written form has not been furnished or does not comply with the standard.

☒ the computer readable form has not been furnished or does not comply with the standard.
4. ☐ The failure of the tables related to the nucleotide and/or amino acid sequence listing to comply with the technical requirements provided for in Annex C-b/s of the Administrative Instructions prevents a meaningful search from being carried out:
 

☐ the written form has not been furnished.

☐ the computer readable form has not been furnished or does not comply with the technical requirements.
5. Further comments: see annex

Name and mailing address of the International Searching Authority  European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Authorized officer  <b>Wolfgang-Peter Schießl</b>
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FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 203

The present invention relies in the provision of a modified CEA sequence (designated CEA(6D)-1,2) that, as indicated in independent claims 1, 26, 31, 36 and 37, is illustrated in SEQ ID NO:24 and Figure 9. However claims 1-37 have, according to PCT Rule 13ter.1.c, not been searched since the Sequence Listing as present in the description does not comply with WIPO Standard ST 25 prescribed in the administrative instructions under Rule 5.2. The Sequence Listing has been furnished neither in paper form nor in machine readable form as provided for in the same instructions and the applicant has not remedied the disclosed deficiencies within the time limit fixed in the invitation pursuant to PCT Rule 13ter.1.a.

As claims 1, 26, 31, 36 and 37 only refer to CEA(6D)-1,2 identified by SEQ ID NO:24 and SEQ ID NO:24 was not available electronically, no search report could be established for independent claims 1, 26, 31, 36 and 37. Dependent claims 2-25, 27-30, 32-35 are a specific combination of features that rely on the main invention, i.e. CEA(6D)-1,2. As CEA(6D)-1,2 could not be searched, the specific combination of features of claims 2-25, 27-30, 32-35 could also not be searched.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.